# THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on :21.02.2007

WP(C) No.1314/2007

**DURGA PRASAD MISHRA** ...Petitioner

- versus -

**UNION OF INDIA & OTHERS** ...Respondents

**Advocates who appeared in this case:**
For the Petitioner : Mr Anoop Kumar Srivastava
For the Respondent/UOI : Mr Gaurav Duggal

**CORAM:-**
**HON'BLE MR JUSTICE BADAR DURREZ AHMED**

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

**BADAR DURREZ AHMED, J (ORAL)**

1. The petitioner alleges to have invented a technology for production of heavy water which will be used in nuclear reactors for the production of nuclear energy. According to the petitioner the process developed by him is very cost effective and it would enable the production of heavy water at virtually no cost at all because the by-product is distilled water, which can be sold and the proceeds of which would reduce the cost of conversion.

2. He had been communicating with the Government of India,

Ministry of Science and Technology in respect of the alleged technology developed by him in view of the provisions of Section 20(4) of the Atomic Energy Act, 1962, which requires that any person, who has made an invention, which he has reason to believe relates to atomic energy, shall communicate to the Central Government, the nature and the description of the invention. Apart from this, the petitioner, after having communicated to the Central Government, the nature and description of the invention, also sought assistance under the Technopreneur Promotion Programme of the Central Government whereby inventors are given certain benefits and financial support. By a letter dated 11.12.2006 issued by Mr B. N. Sarkar, Scientist-'E', Government of India, Ministry of Science & Technology, Department of Scientific & Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi, the petitioner was informed that his proposal was discussed during the 77th Technology Screening Committee held on 14.11.2006 and the said Committee observed that heavy water is a controlled/regulated item by Government of India for their exclusive use and that experimentation pertaining to such proposals cannot be permitted for research/ exploitation by the individuals for its industrial use. In view of this, the proposal of the petitioner was considered to be beyond the purview of the Technopreneur Promotion Programme and the Committee recommended the closure of the present proposal.

3. It is the contention of the learned counsel for the petitioner that it

was never his intention to put the heavy water produced employing his technology for private industrial use. He wanted that the same be utilized by the Government for the benefit of India at large. He submits that since the Central Government has not evinced any interest in his technology and has closed his proposal, he may be permitted to apply for a patent abroad for the invention.

4. Mr Gaurav Duggal, who appears on behalf of the respondents, on advance notice, submits that it is not as if the Central Government had shut out the petitioner but that he was directed for guidance to the Heavy Water Board, Mumbai in terms of the letter dated 07.09.2006. But, the petitioner submitted that he did not need any guidance in this field. Mr Duggal further submitted that in any event, the provisions of the Act themselves permit any person intending to apply for a patent abroad, to obtain prior permission from the Central Government under the provisions of Section 20(5) of the said Act. If the petitioner so desires to apply for a patent abroad, he may apply for permission and the same would be disposed of by the Central Government in accordance with law.

5. After having heard the counsel for the parties and having examined the rival submissions, it appears that the only course open to the petitioner at this stage, in view of the provisions of the said Act, is that, if he so desires, he

may apply for permission to have the patent registered abroad. He would, therefore, have to make an application for such permission from the Central Government in terms of Section 20(4) of the said Act. If the petitioner makes such an application, then the Central Government, as provided under the Act itself, shall consider and deal with the application in accordance with law.

This petition stands disposed of.

**BADAR DURREZ AHMED**
**(JUDGE)**

**February 21, 2007**
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